

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

DORSEY & WHITNEY LLP
Attn. Abelev, Gary
250 Park Avenue
New York NY 10177
UNITED STATES OF AMERICA

Patent Mail Received

MAR 08 2006

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Date of mailing
(day/month/year)

07/03/2006

Applicant's or agent's file reference

34827/PCT 475387-167

FOR FURTHER ACTION

See paragraphs 1 and 4 below

International application No.

PCT/US2005/035711

International filing date

(day/month/year)

29/09/2005

Applicant

THE GENERAL HOSPITAL CORPORATION

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the International Search Report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: (41-22) 338.82.70

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ **With regard to the protest** against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

- ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
- ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. Reminders

Shortly after the expiration of **18 months** from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within **19 months** from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until **30 months** from the priority date (in some Offices even later); otherwise, the applicant must, **within 20 months** from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of **30 months** (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the International Searching Authority

European Patent Office, P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk
Tel: (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

Eva San Miguel

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the *PCT Applicant's Guide*, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report and the written opinion of the International Searching Authority, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only (see *PCT Applicant's Guide*, Annexes B1 and B2).

The attention of the applicant is drawn to the fact that amendments to the claims under Article 19 are not allowed where the International Searching Authority has declared, under Article 17(2), that no international search report would be established (see *PCT Applicant's Guide*, Volume I/A, paragraph 296).

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 34827 / PCT	FOR FURTHER ACTION		see Form PCT/ISA/220 as well as, where applicable, item 5 below.
International application No. PCT/US2005/035711	International filing date (day/month/year) 29/09/2005	(Earliest) Priority Date (day/month/year) 29/09/2004	
Applicant THE GENERAL HOSPITAL CORPORATION			

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b))

b. ☐ With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, see Box No. I.

2. ☐ **Certain claims were found unsearchable** (See Box No. II)

3. ☐ **Unity of invention is lacking** (see Box No. III)

4. With regard to the **title**,

- ☒ the text is approved as submitted by the applicant
☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

- ☒ the text is approved as submitted by the applicant
☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority

6. With regard to the **drawings**,

- a. the figure of the **drawings** to be published with the abstract is Figure No. 1
☒ as suggested by the applicant
☐ as selected by this Authority, because the applicant failed to suggest a figure
☐ as selected by this Authority, because this figure better characterizes the invention
b. ☐ none of the figures is to be published with the abstract

A. CLASSIFICATION OF SUBJECT MATTER A61B1/00 G02B23/24		
According to International Patent Classification (IPC) or to both national classification and IPC		
B. FIELDS SEARCHED Minimum documentation searched (classification system followed by classification symbols) A61B G02B		
Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched		
Electronic data base consulted during the international search (name of data base and, where practical, search terms used) EP0-Internal		
C. DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 4 140 364 A (YAMASHITA ET AL) 20 February 1979 (1979-02-20)	1-3, 5, 6, 10, 12, 17-19, 21, 26, 28
Y	figure 3	13, 14, 29, 30
A	column 2, line 38 - column 3, line 54	4, 7-9, 11, 15, 16, 20, 22-25, 27, 31, 32
Y	WO 92/16865 A (HICKS, JOHN, WILBUR) 1 October 1992 (1992-10-01) page 2, line 15 - page 3, line 16 ----- -/--	13, 14, 29, 30
<input checked="" type="checkbox"/> Further documents are listed in the continuation of Box C. <input checked="" type="checkbox"/> See patent family annex.		
* Special categories of cited documents : *A* document defining the general state of the art which is not considered to be of particular relevance *E* earlier document but published on or after the international filing date *L* document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified) *O* document referring to an oral disclosure, use, exhibition or other means *P* document published prior to the international filing date but later than the priority date claimed *T* later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention *X* document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone *Y* document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art *&* document member of the same patent family		
Date of the actual completion of the international search 23 February 2006		Date of mailing of the international search report 07/03/2006
Name and mailing address of the ISA/ European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel: (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016		Authorized officer Rivera Pons, C

C(Continuation). DOCUMENTS CONSIDERED TO BE RELEVANT		
Category*	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	<p>US 2003/090753 A1 (TAKEYAMA TETSUhide ET AL) 15 May 2003 (2003-05-15)</p> <p>paragraphs '0166! - '0184! paragraphs '0185! - '0187! figure 1</p> <p>-----</p>	<p>1,2,5-7, 17,18, 21-23</p>
X	<p>US 5 912 764 A (TOGINO ET AL) 15 June 1999 (1999-06-15)</p> <p>figures 1,2 column 1, line 61 - column 2, line 20 column 6, lines 22-42 column 15, line 29 - column 16, line 46</p> <p>-----</p>	<p>1,2,5,6, 17,18, 21,22</p>
X	<p>US 4 877 314 A (KANAMORI ET AL) 31 October 1989 (1989-10-31) the whole document</p> <p>-----</p>	<p>1,2,5, 17,18,21</p>

Patent document cited in search report		Publication date		Patent family member(s)	Publication date
US 4140364	A	20-02-1979	DE	2430148 A1	09-01-1975
			JP	50022038 U	12-03-1975
			JP	58004481 Y2	26-01-1983
WO 9216865	A	01-10-1992	AU	1350392 A	21-10-1992
			CA	2119881 A1	01-10-1992
US 2003090753	A1	15-05-2003	JP	2003035869 A	07-02-2003
US 5912764	A	15-06-1999	JP	10090603 A	10-04-1998
US 4877314	A	31-10-1989	JP	2697822 B2	14-01-1998
			JP	63291019 A	28-11-1988

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2005/035711

International filing date (day/month/year)
29.09.2005

Priority date (day/month/year)
29.09.2004

International Patent Classification (IPC) or both national classification and IPC
A61B1/00, G02B23/24

Applicant
THE GENERAL HOSPITAL CORPORATION

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
☐ Box No. II Priority
☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☐ Box No. IV Lack of unity of invention
☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☐ Box No. VI Certain documents cited
☐ Box No. VII Certain defects in the international application
☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Rivera Pons, C

Telephone No. +49 89 2399-6063



Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/US2005/035711

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4, 8, 9, 11, 13, 14, 15, 16, 20, 24, 25, 27, 29, 30, 31, 32
	No: Claims	2, 3, 5-7, 10, 12, 18, 19, 21-23, 26, 28,
Inventive step (IS)	Yes: Claims	4, 8, 9, 11, 15, 16, 20, 24, 25, 27, 31, 32
	No: Claims	2, 3, 5-7, 10, 12, 13, 14, 18, 19, 21-23, 26, 28, 29, 30
Industrial applicability (IA)	Yes: Claims	1-32
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V.

1. Reference is made to the following documents:

- D1: US-A-5 912 764 (TOGINO ET AL) 15 June 1999 (1999-06-15)
D2: US-A-4 140 364 (YAMASHITA ET AL) 20 February 1979 (1979-02-20)
D3: WO 92/16865 A (HICKS, JOHN, WILBUR) 1 October 1992 (1992-10-01)
D4: US 2003/090753 A1 (TAKEYAMA TETSUhide ET AL) 15 May 2003 (2003-05-15)

D5: US-A-4 877 314 (KANAMORI ET AL) 31 October 1989 (1989-10-31)

2. INDEPENDENT CLAIM 1

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

Document D1 discloses (the references in parentheses applying to this document):

An apparatus for transmitting at least one electro-magnetic radiation (abstract), comprising;

- at least one optical fiber having at least one end extending along a first axis (column 6, lines 22-42); and
- a light transmissive optical arrangement provided in optical cooperation with the at least one optical fiber, the optical arrangement including a first surface having a planar portion that is perpendicular to a second axis, and a second surface which includes a curved portion, wherein the first axis is provided at a particular angle that is more than 00 and less than 900 with respect to the second axis (abstract, figure 1; planar portion is element 5 and curved portion is element 4).

3. INDEPENDENT CLAIM 17

The same reasoning and passages apply mutatis-mutandis to independent method claim 17. Therefore, the subject-matter of claim 17 is not new in the sense of Article 33(2) PCT.

4. DEPENDENT CLAIMS 2, 3, 5-7, 10, 12, 13, 14, 18, 19, 21-23, 26, 28, 29, 30
Dependent claims 2, 3, 5-7, 10, 12, 13, 14, 18, 19, 21-23, 26, 28, 29, 30 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

The features of the above mentioned claims can be found in the documents and passages cited in the following table:

Claims 2, 18: D1, abstract and figure 1

Claims 3, 19: D1, abstract. If the curved surface is a non-rotationally symmetric surface it is necessarily formed by at least two curvatures.

Claims 5,6,21,22: D1, figure 1 and passages cited in the search report

Claims 7,23: Mirror coated surfaces are often used in the field.

Claims 10,26: D2, figure 3, element 11

Claims 12,28: D1, correction of aberration

Claims 13,29: D3, page 2, line 15 to page 3, line 16

Claims 14,30: D3, page 2, line 15 to page 3, line 16

5. DEPENDENT CLAIMS 4, 8, 9, 11, 15, 16, 20, 24, 25, 27, 31, 32

The combination of the features of dependent claims 4, 8, 9, 11, 15, 16, 20, 24, 25, 27, 31, 32 appear to be neither known from, nor rendered obvious by, the available prior art.